

**Introduced by Senator Escutia**February 21, 2003

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An act to amend Sections 71801 and 71802 of the Government Code, and to amend Section 1 of Chapter 1047 of the Statutes of 2002, relating to courts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 818, as introduced, Escutia. Trial courts: interpreters.

The Trial Court Interpreter Employment and Labor Relations Act establishes procedures governing the employment and compensation of certified and registered trial court interpreters, and court interpreters pro tempore, employed by the courts.

This bill would revise a number of the implementation dates set forth in that act. The bill would, among other things, extend the ending date of the regional transition period for the program from January 1, 2005, to July 1, 2005. The bill would also make other revisions to the act, including technical nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 71801 of the Government Code is
- 2 amended to read:
- 3 71801. For purposes of this chapter, the following definitions
- 4 shall apply:
- 5 (a) "Certified interpreter" and "registered interpreter" have
- 6 the same meanings as in Article 4 (commencing with Section



1 68560) of Chapter 2. This chapter does not apply to sign language  
2 interpreters.

3 (b) “Cross-assign” and “cross-assignment” refer to the  
4 appointment of a court interpreter employed by a trial court to  
5 perform spoken language interpretation services in another trial  
6 court, pursuant to Section 71810.

7 (c) “Employee organization” means a labor organization that  
8 has as one of its purposes representing employees in their relations  
9 with the trial courts.

10 (d) “Mediation” means effort by an impartial third party to  
11 assist in reconciling a dispute regarding wages, hours, and other  
12 terms and conditions of employment between representatives of  
13 the trial court or regional court interpreter committee and the  
14 recognized employee organization through interpretation,  
15 suggestion, and advice.

16 (e) “Meet and confer in good faith” means that a trial court or  
17 regional court interpreter committee or those representatives it  
18 may designate, and representatives of a recognized employee  
19 organization, shall have the mutual obligation personally to meet  
20 and confer promptly upon request by either party and continue for  
21 a reasonable period of time in order to exchange freely  
22 information, opinions, and proposals, and to endeavor to reach  
23 agreement on matters within the scope of representation. The  
24 process shall include adequate time for the resolution of impasses  
25 where specific procedures for resolution are contained in this  
26 chapter, or when the procedures are used by mutual consent.

27 (f) “Personnel rules,” “personnel policies, procedures, and  
28 plans,” and “rules and regulations” mean policies, procedures,  
29 plans, rules, or regulations adopted by a trial court or its designee  
30 pertaining to conditions of employment of trial court employees,  
31 subject to meet and confer in good faith.

32 (g) “Recognized employee organization” means an employee  
33 organization that has been formally acknowledged to represent the  
34 court interpreters employed by the trial courts in a region, pursuant  
35 to this chapter.

36 (h) “Regional court interpreter employment relations  
37 committee” means the committee established pursuant to Section  
38 71807.

39 (i) “Regional transition period” means the period from  
40 January 1, 2003, to ~~January~~ July 1, 2005, inclusive, except that the



1 transition period for the region may be terminated earlier by a  
2 memorandum of understanding or agreement between the  
3 regional court interpreter employment relations committee and a  
4 recognized employee organization.

5 (j) “Transfer” means transfer within the trial court as defined  
6 in the trial court’s personnel policies, procedures, and plans,  
7 subject to meet and confer in good faith.

8 (k) “Trial court” means the ~~supreme~~ *superior* court in each  
9 county.

10 SEC. 2. Section 71802 of the Government Code is amended  
11 to read:

12 71802. (a) On and after July 1, 2003, trial courts shall appoint  
13 trial court employees, rather than independent contractors, to  
14 perform spoken language interpretation of trial court proceedings.  
15 An interpreter may be an employee of the trial court or an  
16 employee of another trial court on cross-assignment.

17 (b) Notwithstanding subdivision (a), a trial court may appoint  
18 an independent contractor to perform spoken language  
19 interpretation of trial court proceedings if one or more of the  
20 following circumstances exists:

21 (1) An interpreter who is not registered or certified is appointed  
22 on a temporary basis pursuant to Rule 984.2 of the California Rules  
23 of Court.

24 (2) The interpreter is over 60 years of age on January 1, 2003,  
25 or the sum of the interpreter’s age in years on January 1, 2003, and  
26 the number of years the interpreter has provided services to the  
27 trial courts as an independent contractor prior to January 1, 2003,  
28 is equal to or greater than 70, the interpreter has provided services  
29 to the trial courts as an independent contractor prior to January 1,  
30 2003, and the interpreter requests in writing prior to ~~March~~ *June*  
31 1, 2003, the opportunity to perform services for the trial court as  
32 an independent contractor rather than as an employee.

33 (3) The interpreter is paid directly by the parties to the  
34 proceeding.

35 (4) The interpreter has performed services for the trial courts  
36 as an independent contractor prior to January 1, 2003, the  
37 interpreter notifies the trial court in writing prior to ~~March~~ *June*  
38 1, 2003, that the interpreter is precluded from accepting  
39 employment because of the terms of an employment contract with  
40 a public agency or the terms of a public employee retirement

1 program, the interpreter provides supporting documentation, and  
2 the interpreter requests in writing the opportunity to perform  
3 services for the trial court as an independent contractor rather than  
4 an employee.

5 (c) Notwithstanding subdivisions (a) and (b), and unless  
6 otherwise provided in a memorandum of understanding or  
7 agreement with a recognized employee organization, a trial court  
8 may also appoint an independent contractor on a day-to-day basis  
9 to perform spoken language interpretation of trial court  
10 proceedings if all of the following circumstances exist:

11 (1) The trial court has assigned all the available employees and  
12 independent contractors appointed pursuant to paragraphs (2) and  
13 (4) of subdivision (b) in the same language pair and has need for  
14 additional interpreters. Employees and independent contractors  
15 who are appointed pursuant to paragraphs (2) and (4) of  
16 subdivision (b) shall be given priority for assignments over  
17 independent contractors who are appointed pursuant to this  
18 subdivision.

19 (2) The interpreter has not previously been appointed as an  
20 independent contractor by the same trial court on more than 100  
21 court days or parts of court days during the same calendar year,  
22 except that the trial court may continue to appoint an independent  
23 contractor on a day-to-day basis to complete a single court  
24 proceeding, if the trial court determines that the use of the same  
25 interpreter to complete that proceeding is necessary to provide  
26 continuity. An interpreter who has been appointed by a trial court  
27 as an independent contractor pursuant to this subdivision on more  
28 than 45 court days or parts of court days during the same calendar  
29 year shall be entitled to apply for employment by that trial court  
30 as a court interpreter pro tempore and the trial court may not refuse  
31 to offer employment to the interpreter, except for cause. For  
32 purposes of this section, “for cause” means a fair and honest cause  
33 or reason regulated by good faith on the part of the party exercising  
34 the power.

35 (3) The trial court does not provide independent contractors  
36 appointed pursuant to this subdivision with lesser duties or more  
37 favorable working conditions ~~that~~ *than* those to which a court  
38 interpreter pro tempore employed by that trial court would be  
39 subject for the purpose of discouraging interpreters from applying  
40 for pro tempore employment with the trial court. The trial court is



1 not required to apply the employee training, disciplinary,  
2 supervisory, and evaluation procedures of the trial court to any  
3 independent contractor.

4 (d) Only registered and certified interpreters may be hired by  
5 a trial court as employees to perform spoken language  
6 interpretation of trial court proceedings. Interpreters who are not  
7 certified or registered may be assigned to provide services as  
8 independent contractors only when certified and registered  
9 interpreters are unavailable and the good cause and qualification  
10 procedures and guidelines adopted by the Judicial Council  
11 pursuant to subdivision (c) of Section 68561 have been followed.

12 (e) A trial court that has appointed independent contractors  
13 pursuant to paragraph (1) of subdivision (b) or to subdivision (c)  
14 for a language pair on more than 60 court days or parts of court  
15 days in the prior 180 days shall provide public notice that the court  
16 is accepting applications for the position of court interpreter pro  
17 tempore for that language pair and shall offer employment to  
18 qualified applicants.

19 (f) Unless the parties to the dispute agree upon other procedures  
20 after the dispute arises, or other procedures are provided in a  
21 memorandum of understanding or agreement with a recognized  
22 employee organization, disputes concerning a violation of this  
23 section shall be submitted for binding arbitration to the California  
24 State Mediation and Conciliation Service.

25 SEC. 3. Section 1 of Chapter 1047 of the Statutes of 2002, is  
26 amended to read:

27 Sec. 1. The Legislature finds and declares as follows:

28 (a) Court interpreters provide constitutionally mandated ~~sign~~  
29 ~~and~~ spoken language services to the court, attorneys, defendants,  
30 victims, and witnesses in trial court proceedings. These services  
31 are vital to ensuring access and fairness in the trial courts. The  
32 purpose of this act is to provide for the fair treatment of court  
33 interpreters, to enhance access to the court system for persons who  
34 depend upon the services of interpreters, and to promote sound  
35 court management.

36 (b) The intent of the Legislature is to provide that the trial  
37 courts shall make an orderly transition from relying on  
38 independent contractors to using employees for interpretation  
39 services. Accordingly, this act provides for a transition period of  
40 up to two years during which the trial courts shall hire as

- 1 employees court interpreters pro tempore who shall perform work
- 2 as needed on a per diem basis. After the transition period, the trial
- 3 courts may continue to employ court interpreters pro tempore as
- 4 well as create other interpreter classifications.

